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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/573,028

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Allan Johansson

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BIRCH STEWART KOLASCH & BIRCH  
PO BOX 747  
FALLS CHURCH, VA 22040-0747

EXAMINER

CHAN, HENG M

ART UNIT

PAPER NUMBER

1793

NOTIFICATION DATE

DELIVERY MODE

08/28/2009

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/573,028	<b>Applicant(s)</b> JOHANSSON ET AL.	
	<b>Examiner</b> HENG M. CHAN	<b>Art Unit</b> 1793	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 July 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 2-11 and 13-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-11 and 13-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☒ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election with traverse of Group II, claims 2-9 in the reply filed on 7/13/2009 is acknowledged. The traversal is on the ground(s) that the claims have been amended such that all claims now conform to the elected subject matter, i.e. a method of manufacturing a product. As a result of amendment, the restriction requirement has been withdrawn and claims 2-11 and 13-17 are examined on the merits.

### ***Claim Objections***

1. Claim 2 is objected to because the method steps should be recited as action steps, for example, "a) dissolving air, or other gases, at a low temperature..." Appropriate correction is required.

Claim 7 is objected to because "a" should be inserted between "which" and "small" in line 2.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 2, 5, 10, 11, 16, and 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Art Unit: 1793

The term "low" in claim 2 is a relative term which renders the claim indefinite. The term "low" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. For examination purposes, the limitation "at a low temperature" is interpreted as any temperature.

Claim 5 recites the limitation "the cellulose ester or cellulose ether" in line 5. There is insufficient antecedent basis for this limitation in the claim.

Claims 10, 16, and 17 recite the limitation "the starch-based material." There is insufficient antecedent basis for this limitation in the claim. It is also unclear as to which material or which stage of the method this starch-based material is referring.

Claim 11 recites the limitation "the starch gels/starch foams" in line 2. There is insufficient antecedent basis for this limitation in the claim. It is also unclear whether or not both the starch gels and starch foams are required because of the slash.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**3. Claims 2-11 and 13-17 are rejected under 35 U.S.C. 102(b) as being anticipated by US 6,582,509 to Mälkki et al.**

Art Unit: 1793

Regarding claim 2, Mälkki et al. teach a method of manufacturing a porous starch-based pigment or filler product comprising a stable foam, said method comprising:

a) air, or other gases is dissolved at any temperature into a water gel of starch (claims 1 and 3, swelling starch granules by contacting the starch granules with a first liquid, e.g. water, at a temperature that is below the gelatinization temperature of the starch granule), after which the raising of the temperature generates a gas/liquid phase separation(column 4, lines 42-48; claim 6), and the product is crosslinked to achieve said stable foam (claims 10 and 11; column 3, lines 40-42), wherein said stable foam contains foam bubbles and the average size of said bubbles is less than approximately 10 micrometres (e.g. Example 1, 0.5-3  $\mu\text{m}$ ).

Regarding claims 3-11 and 13-17, since steps b), c), and d) of claim 2 are written as optional method steps that are not required by claim 2, the instant claims, as written, are *proviso* upon limitations c) and d) not required by the independent claim and therefore do not come into force. They are rejected under the same ground of rejection as claim 2.

### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HENG M. CHAN whose telephone number is (571)270-5859. The examiner can normally be reached on Monday to Friday, 8:00 am EST to 5:30 pm EST.

Art Unit: 1793

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo can be reached on (571)272-1233. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J.A. LORENZO/  
Supervisory Patent Examiner, Art Unit 1793

/HENG M CHAN/  
Examiner, Art Unit 1793